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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/809,340	05/06/1997	PIETRO PADOVANI	B-3289PCT615	7453

7590 02/27/2004

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EXAMINER

MACKEY, JAMES P

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 02/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/809,340

Applicant(s)

PADOVANI, PIETRO

Examiner

James Mackey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6,8,10,13,14,16,19,20,25-30,43 and 46-49 is/are pending in the application.
- 4a) Of the above claim(s) 25-30 and 46-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6,8,10,13,14,16,19,20 and 43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's election with traverse of Group I, Species B (corresponding to claims 6, 8, 10, 13, 14, 16, 19, 20 and 43) in Paper No. 21 November 2003 is acknowledged. The traversal is on the ground(s) that, while Groups I and II and Species A and B may be patentably distinct, restriction should not be required due to the expense imposed upon the Applicant. This is not found persuasive because there is a serious burden imposed upon the Patent Office and the Examiner in searching and examining plural inventions and plural species; moreover, the expense of filing and prosecuting plural applications for patentably distinct inventions is a necessary consequence of each and every requirement for restriction.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 25-30 and 46-49 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 21 November 2003.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 8, 13, 16, 19 and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

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The original specification does not adequately describe the template conveyor being a carousel conveyor having at least three arms (as is now claimed in independent claim 43) **and also** being a chain conveyor as is claimed in dependent claim 8.

The original specification does not adequately describe the receiving conveying templates having an exterior surface and one or more receiving holes, each receiving hole having an annular collar having an interior dimension being smallest in a region furthest from said exterior surface (as is claimed in independent claim 43) **and also** comprising suction orifices, as is claimed in dependent claim 13.

The original specification does not adequately describe the receiving conveying templates having an exterior surface and one or more receiving holes, each receiving hole having an annular collar having an interior dimension being smallest in a region furthest from said exterior surface (as is claimed in independent claim 43) **and also** wherein the receiving holes have a slightly smaller internal dimension than the external dimension of the thermoformed articles adjacent their rims to that the article is resiliently constrained and properly oriented in the respective receiving hole, as is claimed in dependent claim 16.

The original specification does not adequately describe the receiving conveying templates having an exterior surface and one or more receiving holes, each receiving hole having an annular collar having an interior dimension being smallest in a region furthest from said exterior surface (as is claimed in independent claim 43) **and also** comprising air jets, as is claimed in dependent claim 19.

The original specification does not adequately describe the receiving conveying templates having an exterior surface and one or more receiving holes, each receiving hole having an

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annular collar having an interior dimension being smallest in a region furthest from said exterior surface (as is claimed in independent claim 43) **and also** including a cup-shaped receiving component having at least one orifice in its bottom, as is claimed in dependent claim 20.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6, 10, 14 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over UK Patent Application GB 2,263,660 taken together with Christine et al. (U.S. Patent 3,538,997) in view of Beyer-Olsen et al. (U.S. Patent 3,966,386).

GB '660 teaches the thermoforming apparatus substantially as claimed, including extraction pick-up means PA, 26, 27 for extracting thermoformed articles/containers from the female die 15 (and opposed counter-die 12) and transferring the containers to conveying templates on a conveyor (see especially Figs. 14-23 and 32). GB '660 further teaches that the extraction plate and the conveying template have receiving seats for receiving and retaining the thermoformed containers, but does not teach that the receiving seat of the template is a receiving hole having an annular collar with an interior dimension smallest in a regions furthest from the exterior surface of the template, and does not teach the template conveyor being a carousel conveyor having at least three arms. Christine et al. teach a conveyor formed of plural templates 15, each template including plural receiving holes each having an annular truncated conical collar 22 for retaining a container 35, the annular collar having an interior dimension smallest in

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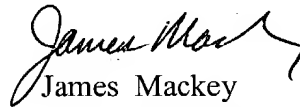
a region furthest from the exterior surface of the template; note that the area of the template surface surrounding the upstanding portions 24 of the collars reads on the claimed peripheral recess about the receiving hole (claim 14). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify GB '660 by providing the receiving seats of the conveying template as a receiving seat with an annular collar having an interior dimension smallest in a region furthest from the exterior surface of the template, as disclosed in Christine et al., in order to more securely retain the thermoformed containers on the conveying template, and in order to allow the templates to be used for differently sized or shaped thermoformed containers by replacing the annular collars with differently sized/shaped collars. Beyer-Olsen et al. teach an apparatus for removing molded articles from a molding device comprising a carousel conveyor having a plurality of arms, each arm being provided with a means for gripping the molded article and moving said article to another location. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify GB '660 by providing the conveyor as a carousel conveyor, as disclosed in Beyer-Olsen et al., in order to facilitate the conveying of the molded articles and to provide a compact arrangement for the apparatus.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Mackey whose telephone number is 571-272-1135. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James Mackey
Primary Examiner
Art Unit 1722

2/23/04

jpm
February 23, 2004